

Mr. Kelleetts CASE

WITH THE

SOCIETY

OF

Clements-Inn.

KELLETT supposing the Principal and Ancients of *Clements-Inn* had good Title to the *Inn*, did in *July 1673*, Contract with them for ground to build thereon for a Term of forty years at the Rent of 12 *l. per Annum*: After *Kellett* had expended near 2000 *l.* in building, the Earl of *Clare* claimed Title to the whole *Inn*, and sent to *Kellett* to come to him before he went beyond the Seas and comply with his Lordship, or else he would stop up his Lights: *Kellett* acquainted the Principal and Ancients therewith, desiring some of them to go with him to the Earl, but they refusing to go, *Kellett* did not; thereupon the Earl reserved power in *Mr. Marklands* Lease to come into the ground adjoining to *Kelleetts* building to stop up his Lights.

When the Earl was beyond the Seas he sent several Letters to his Steward to stop up *Kelleetts* Lights, if he would not comply: That a building being begun to stop up *Kelleetts* Lights, he made known the same to the Principal and Ancients, desiring them to prevent it, but they refused, saying they were not concerned till after Forty years.

Thereupon *Kellett* at his own charge moved in *Chancery* for a Writ of *Nusance*, which was granted; but the Earl moving against it, and the Society not assisting *Kellett*, the Lord Chancellor declared that it was not *Clements-Inn* building but *Kelleetts*, and wondred how he durst build without the consent of the *Inner Temple*.

Then *Kellett* Petitioned the Benchers of the *Inner Temple*, setting forth his Contract, and what the Lord Chancellor had said, praying them to defend him from the Earl, and *Clements-Inn*, and he would perform his Contract and pay Rent to them: That some of the Benchers advised *Kellett* to give a Copy of his Petition to the Principal and Ancients, wishing them to come to the Benchers before the Petition was preferred, which *Kellett* accordingly did, but the Ancients refused to go, saying that the Benchers had nothing to do with them in matters of Title but only relating to the Government of the Society.

Thereupon *Kellett* preferred his Petition to the Benchers, who debated the matter at the Table, whether they should make an Order for the Principal and Ancients to attend them, in regard they had sent word to the Benchers that they had nothing to do with them as to Title, therefore they directed their Chief Butler to go to the Princi-

pal and Ancients and desire them with *Kellett* to attend Sir *John Trevor* then Treasurer at his Chamber with some Benchers, and the Principal and Ancients with *Killett* attending accordingly, the Benchers did not pretend Title to *Clements-Inn*, but wished *Kellett* to comply with the Principal and Ancients, which *Kellett* never refused so as he might have a good Title or be defended from the Earl of *Clare*.

Then *Kellett* acquainted Mr. Justice *Twisden* with his Case, and he and several others satisfied *Kellett* that the Title to *Clements-Inn* was in the Earl, and unless he complied with the Earl he could not be safe; and this was the motive that induced *Kellett* to comply with the Earl, although it has been falsely reported, that *Kellett* was the first promoter of the Earls Title to be rid of his hard bargain, and to avoid his Contract; but the contrary is notorious, for *Kellett* opposed the Earl to his uttermost, and never entertained thoughts of a compliance until he was deserted by the Principal and Ancients, they refusing either to defend or give him any assistance, and being thus exposed he thought it behoov'd him to consult his own security in the best way he could, being in no wise able to withstand the proceedings of the Earl, who had caused some of *Kellett's* Lights to be stopp'd up, and threaten'd to stop up more: And so far was *Kellett* from endeavouring to avoid his Contract, that before the Earl pretended Title, *Kellett* tender'd to the Principal and Ancients a draught of Articles, such as they usually made, but they refused to Execute the same, upon pretence *Kellett* had taken more ground then was agreed on, although the same was done by the Consents of some of the Ancients, and is in truth a benefit to the Society, but a prejudice to *Kellett*.

That *Kellett* suffering under so great extremity repaired to the honorable Mr. *Peirpoint* and others the Earls Trustees, (the Earl being then beyond the Seas) and agreed with them for a Lease of all *Clements-Inn* for a 100 years at the Rent of 20*l.* per Annum, but as soon as this Agreement was known, and that the Earl had ordered *Kellett* his assistance as his Tennant, the Principal and Ancients ordered, that unless *Kellett* would desist from further proceeding with the Earl and comply with them, that *Kellett* should be expelled the Society and Padlocks set upon his Chamber door, which was accordingly done, and *Kellett* breaking off the Padlock was upon the complaint of the Principal and Ancients summoned before the then Lord Chief Justice *Hales*, and *Kellett* offered by Rule of Court, to submit the matter to his Lordships Award, but his Lordship refusing to undertake the same, advised *Kellett* to comply with the Principal and Ancients, which he was willing to do, so as he might be defended from the Earl, although he was like to be a great loser by the Building.

In answer whereunto, it was pretended by Mr. *Edward Garrard* one of the Ancients, that *Kellett* would be gainer; for that the building was worth above 2100*l.* and *Kellett* for quietness sake offered to take less by 300*l.* which offer his Lordship advised the Principal and Ancients to accept, and pay the money, but they pretending they had no money, his Lordship being unsatisfied with that excuse said, had no person in *Clements-Inn* money to buy a good Bargain? advising them to close with *Kellett's* offer and let him hear no more of it, but they refused to comply and his Lordship died.

The matter thus resting undetermined, *Kellett* upon the Earls return into England went to a Bencher of the Inner Temple to advise about his Lease, who told *Kellett*, that he could not be of Counsel against *Clements-Inn* because they had some dependance upon the Inner Temple; whereupon *Kellett* desiring him to advise such a Lease as they would accept, he advised *Kellett* rather to buy the inheritance, than take a Lease, for that he was confident the Inner Temple would accept of the Inheritance.

Thereupon *Kellett* with much difficulty prevailed with the Earl to sell his Inheritance, upon *Kellett's* promise that if he parted with it, it should be to the Inner Temple: For that the Society of *Clements-Inn* had much affronted the Earl in refusing to pay Rent, pulling down his Arms and denying his Lordships Tenants liberty to go through the Inn in the day time, which is reserved in *Kellett's* Conveyance from six in the morning till nine at Night, except Sundays in Church time.

After *Kellett* had purchased the Inheritance, he repaired to Mr. *Powel* then Treasurer of the Inner Temple, and offered the same to that Society gratis, so as they would make a Lease to him of such part thereof as should not disturb or prejudice any mans person or interest there, and yet leave *Clements-Inn* a Revenue of 100*l.* per Annum.

Mr. *Powel* liked *Kellett's* proposition, and said, that though they had not money they would give him something for it; thereupon *Kellett* propos'd, that he and his two Sons should

[3]

should be admitted of the *Inner-Temple* and have Chambers for their three lives, with which Mr. *Powel* seemed well pleased, but afterwards refused to proceed therein, which disappointment proved very prejudicial to *Kellett*, for had not he relied upon their acceptance of the Inheritance, he had taken a Lease, and so had been intitled to the favour and protection of the Earl as his Tennant.

Kellett finding his expectation frustrated, and that *Clements-Inn* would not condescend to any reasonable terms, brought and Ejectment to trie his title, and moved the Court of Kings Bench for a plea or Judgment, and then the Court conceived the matter fit to be composed, and in order thereto *Kellett* gave Copies of his Case to all the Judges, but *Clements Inn* persisting in their unreasonableness, *Kellett* moved the Court again, and then Mr. Justice *Wild* told the Society in open Court that they would neither go to Church nor stay at home; for if they had a title, *Kellett* should submit to them, and if they had no title, they might have one upon reasonable termes, and so ordered Judgment unless they pleaded.

After a plea given and the Cause ready for Tryall, the Principal and Ancient and others as a Society in February, 1679, exhibited their Bill in *Chancery*, and then got an Injunction to stay proceedings at Law, and then the Lord Chancellor referred the matter to the Lord Chief Justice *Pemberton*, being then but a puisny Judge, to compose the difference if he could, who being attended by both parties, and altho *Kellett* did, as he apprehends, fully satisfy his Lordship of his undoubted title to all *Clements-Inn*, yet he could not prevail with his Lordship to allow him what his building is worth and what he paid to the Earl of *Clare*, and so nothing was done therein.

The Cause in *Chancery* being ready for hearing in *Michaelmas* Term 1680 the Principal and Ancients by motion put it off, and exhibited another Bill against *Kellett* and *Rogers*, to whom *Kellett* had Mortgaged his two Buildings, and *Rogers* exhibited another Bill against *Kellett* and the Principal and Ancients: And these causes coming to be heard on the 15th. of November 1681, the Lord Chancellor without hearing any proofs in the Causes, and without *Kellett* or his Councils consent, ordered that *Kellett* should convey his Inheritance of *Clements-Inn*, to the Society, or to whom they should appoint; They paying *Kellett* what he paid to the Earl with interest, and making *Kellett* a Lease of the new building for sixty years at the Rent of 20 s. per annum, and whereas *Kellett* had a term of nine years to come in a building called *Dobbs* his building, the Society should make it up twenty one years, that *Kellett* should pay *Rogers's* Mortgage mony with interest by *Christmas* 1682 or *Rogers* to hold absolute, and on payment to reconvey to *Kellett*.

The Society refused to enter up the Order for some time, because *Kellett* would not Consent, thereupon *Kellett* by his Petition to the Lord Chancellor shewed for reasons why he could not consent, for that the Society had agreed with *Rogers* to pay the Mortgage mony with interest, well knowing that none out of *Clements-Inn*, would buy *Kellett's* building, and he not able to raise the Mortgage mony otherwise, and so the Society would hold it absolute. He therefore prayeth his Lordship to rehear the Causes or dissolve the injunction, unless the Society would purchase the new building according to the particular of the Rent to his Petition annexed, and make him such satisfaction for his damages as his Lordship should think fit, that so he might discharge the Mortgage; but nothing was done therein. But the Society about the 25th. of February last procured Mr. *Devenish* the Register to enter up the Order to be by *Kellett* and his Councils consent, whereas there was no consent given, nor any mentioned in the Minutes, as by Affidavit appeareth.

Now the Society would have the world believe that the Decree is very advantageous for *Kellett*; and that nothing in reason will satisfy him, but in that particular he refers himself to the Judgment of every impartial Reader of this his Case.

For *Kellett* will make it manifestly appear, that since the finishing of his Building, for want of a title to enable him to dispose thereof, and by reason of the Societies unjust vexation for eight years, he hath been damnified 200 l. per annum, towards satisfaction whereof and other his demands there is decreed no more than these particulars, viz.

1. *Kellett* must convey his Inheritance at the Rate he paid for it with interest, but no allowance made him for his expences and damages.
2. *Kellett* is to have twenty years added in the new building more than the forty years, and twelve years added in *Dobbs's* Building to make it up twenty one years, which makes

makes a great cry but little wool, for it will not answer his charges in *Chancery*, which are considerable.

3. *Kellett* is to have his Rent of 12 *l. per annum* abated to 20 *s. per annum*, and the Society take away a shop worth 10 *l. per annum*, so there is very little abated.

4. *Kellett* must Convey his Inheritance under hand and Seal to the Society, and they will grant Leases to *Kellett* by way of Articles under their hands only, upon which Articles *Kellett* can neither sue for his Rents, nor for breach of Articles on their parts, or dispose of the same, whereas Builders in other houses have Leases under hands and Seals, and may dispose of the same subject to their Covenants.

If *Kellett* may have but half his damages, he will readily Convey his Inheritance at the Rate he paid for it with interest and perform his Contract to a tittle, without expecting his terms to be enlarged or his Rent and Arrears abated.

The Society pretended they have not money to pay *Kellett*, whereas there are as many Buildings out of Lease as they may raise almost 1500 *l.* by disposing of them if the title was settled, and for want of a title few Principals have made accounts, but kept the Revenues of the house in their hands.

The reasons why *Kellett* puts this in print, is because he hath been much misrepresented and aspersed in this affair, as if he intended to dissolve the Society, which was never in his thoughts, neither doth he desire to make any further advantage by any procedure of his, than to reimburse him his expences and damages, and prevent his ruine, which he hopes that the Lord Chancellor being fully satisfied of the truth herein related, will in no wise suffer the Society to ruin *Kellett* and his Family, which will be no advantage to them, or prejudice if *Kellett* be relieved, but compell the Society to do what his Lordship shall think most expedient according to Equity and Justice for the settling a final determination of all differences.

F I N I S.

Printed for *Richard Baldwin* in the *Old-Baily*, 1682.